

Fair Political Practices Commission

MEMORANDUM

To: Commissioners Downey, Knox and Swanson

From: Chairman Getman and Executive Director Krausse

Date: August 26, 2002

Subject: Program cuts for fiscal year 2003-04

Along with all other state agencies, the FPPC is required to submit a plan for cutting its expenditures by 20% in fiscal year 2003-04. The following excerpts from the Department of Finance's budget letter explain how those expenditure reductions are to be achieved:

All Agency Secretaries and independent Department Directors are hereby directed to submit Governor's Budget reduction plans that must total 20-percent of all 2002-03 fiscal year expenditures to the Department of Finance (Finance). ... The reduction plans must be specific proposals to achieve at a minimum the 20-percent ongoing expenditure reduction level for each of state operations and local assistance, independently. Additionally, the 20-percent target applies to each Agency in total, not each department, and the proposed options must be prioritized within the Agency with the first items on the list being the least disruptive reductions.

Agencies should review all programs for reduction opportunities. These reduction plans must incorporate and consider one or more of the following: (1) repeal of statutorily required activities or programs; (2) elimination of discretionary programs; (3) consolidation of programs; (4) Agency reorganization of departments, boards, commissions, and offices (proposed reorganizations that cross Agency jurisdictions must be submitted jointly by the affected Agencies); (5) restructuring program responsibilities between the State and local governmental entities, and (6) reduction in cost and/or service level. Agencies must submit 20-percent spending reduction plans even if they also provide revenue proposals.

The reduction plans must contain ideas that are both realistic and capable of successful implementation to produce the targeted/estimated savings. All program areas must be examined in detail to determine the components that are not truly critical to the department's mission, or cases where a program could function adequately with decreased funding. It should be noted, however, that

because of the significant reductions taken during the 2002-03 budget process, it is likely that this level of reduction can only be achieved by elimination of programs in their entirety. Agencies and departments are the experts in their respective programs and are in the best position to determine which reduction ideas would have the least impact on mission-critical programs and services, and can be implemented successfully.

...

Savings that would not count towards the 20-percent reduction plans

- *One-time savings would not be accepted **unless** they are accompanied with ongoing savings that begin after the one-time savings cease. If the ongoing savings are of lower amounts, only the lower amounts will be counted towards the 20-percent reduction plan.*
- *Across-the-board reductions such as increasing salary savings.*
- *Fee/revenue increase or fund shift proposals. Agencies are encouraged to provide these proposals, but they will be evaluated separately from the 20-percent spending reduction proposals.*
- *Reductions under Control Section 31.60 related to the elimination of 6,000 vacant positions statewide.*
- *Annualized savings not achievable in 2003-04. Only the portion of savings that is achievable in 2003-04 will be counted towards the 20-percent plan. Under all circumstances, a 20-percent reduction must be achieved in 2003-04. Therefore, Agencies are strongly encouraged to build in sufficient lead time and design implementation plans to achieve the full year annualized savings in 2003-04 and thereafter.*

Obviously, we will not know until much later in the budget cycle whether we will be subject to the proposed reduction. At this point, however, we must propose program cuts that would achieve a 20% reduction in expenditures next year, even if those cuts prove unnecessary.

To begin this process, we have solicited input from each division and staff member of the agency. We expect to receive additional ideas as our staff continues to envision innovative ways to cut expenses without decreasing services. What follows is a list of initial ideas submitted by staff. **At this point, we are not recommending or discouraging any of the ideas listed below; instead, we have printed a broad range of ideas in order to solicit and encourage a dialogue between the public and the Commission on how to prioritize program cuts for next year.**

CUTS TO SPECIFIC PROGRAMS

Seek statutory authorization to answer advice letters within 40 to 60 working days, rather than the 21 working days in current law. Members of the public have come to rely upon the issuance of written advice letters to answer questions regarding application of the Act

to specific factual circumstances. Each year, the Legal Division issues approximately 300 advice letters. Even with existing resources, it is hard to meet the 21-day deadline. In 2001, for example, 31% of letters were issued in 21 working days; an additional 46% were issued in 22 to 63 working days; and the remainder took additional time. To date in 2002, 32% of letters have been issued in 21 working days, and 32% in 22 to 63 working days. The Commission could seek a statutory amendment allowing 40 to 60 days, or longer, for issuance of most advice letters, thus lessening the burden on a reduced staff, and perhaps leading to a decrease in the number of advice letters requested each year.

Eliminate or severely curtail telephone advice and informal written advice. Each year, the Technical Assistance Division answers approximately 50,000 telephone calls ranging from such simple matters as a request for forms, to complex questions involving campaign finance rules, conflicts of interest or lobbyist restrictions. In addition, both the Legal and Technical Assistance Divisions answer letters asking for general advice on how the Act works. Amending regulation 18329 to eliminate informal advice letters, and severely curtailing (e.g., to a few hours each day, or only a few days per week) or eliminating the telephone advice line would achieve significant personnel savings. Persons with questions would be asked to rely on FPPC fact sheets, pamphlets, etc., all of which are available on our website.

Eliminate in-house defensive litigation services. Currently, civil cases initiated by the Enforcement Division are handled largely in-house, and cases brought against the FPPC are handled either in-house or with the assistance of the state Attorney General, who by statute is required to represent the FPPC without cost. Even when the AG's office provides representation, Legal Division attorneys devote substantial time to the cases, providing technical expertise on the Act and ensuring that the Commission's views are adequately represented. Significant personnel costs could be saved by handing over to the AG completely all civil cases in which the FPPC is the defendant, eliminating any in-house role for FPPC attorneys.

Severely reduce the regulatory calendar of the Commission. Regulatory action is a major part of the Legal Division's work, and requires resources from throughout the agency. Currently, proposed regulatory actions are vetted through at least one "interested persons" meeting; then heard in one or more pre-notice meetings by the full Commission; and finally set for final adoption. Significant staff savings could be achieved if the Commission cuts in half the amount of regulatory work it takes up each year, and amends regulation 18312 to eliminate interested persons meetings and pre-notice hearings.

Eliminate the FPPC as the filing officer for state and local SEI's. Currently, the Commission's SEI unit receives and processes 20,000 to 25,000 statements of economic interests (SEI's) filed by state elected and appointed officials, high-level local officials, members and staff of the legislature, members of multi-county bodies, etc. The Commission could seek statutory authority to have all such SEI's filed with the home agency of the public official, as most SEI's are currently. Copies of such statements no longer would be kept at the FPPC. Home agency officials would assume responsibility for assuring statements are timely filed and complete, and for providing public access.

Only late filing/enforcement problems would be forwarded to the FPPC's SEI unit for follow-up. The unit also could conduct random audits of agencies and continue with training and outreach efforts, albeit at a greatly reduced level. This proposal would achieve significant personnel, space and computer savings. In the alternative, the SEI unit could be reduced by 50%, maintaining all current functions, but increasing processing time and decreasing substantive review.

Cease paper publications. Currently the Commission produces a large variety of forms, manuals and publications, which are mailed to the public and available through other means. Significant cost savings could be achieved by going to a completely paperless system: all publications, from agenda materials and forms to factsheets and meeting notices, would be posted on the FPPC website, where they would be available for downloading and printing by the individual user.

Eliminate the filing officer training program and other on-site seminars and training programs. The FPPC received significant funding in 1999 to train local filing officers on-site in the proper ways to receive and log various forms, review them for completeness, follow-up on missing or inadequate forms, etc. In addition, personnel from Technical Assistance and Legal Divisions travel throughout the state to give seminars on such topics as campaign filings for new candidates/treasurers; conflict of interest code preparation; SEI filing officer duties; conflict of interest analysis; etc. While tremendously useful, these programs incur substantial personnel and travel costs (although some local agencies assist us now with travel costs). The FPPC instead could provide video training; Power Point presentations available on the web-site; written materials accompanied by taped presentations; etc. In addition, the FPPC could seek statutory authority to eliminate its role in the mandatory ethics training provided to all upper-level state employees, leaving that task to agency general counsels and personnel from the state Attorney General's Office.

Eliminate the Public Education Unit. This unit was created with a funding augmentation received for the first time in fiscal year 2000-01. If that funding is cut, the Publications Editor could be moved to the Legal or Technical Assistance Division; work on new or revised publications would be substantially cut back; the toll-free number (1-866-ASK-FPPC) would be eliminated; the new program of providing telephone access to Commission meetings would be halted; the library of conflict codes would not be updated; and changes and updates to the website would be accomplished by existing staff.

Cease enforcement of Chapter 7 of the Act regarding local officials. Chapter 7 of the Act requires public officials to disclose their financial interests in statements of economic interests (SEI's), and to abstain from participating in governmental decisions in which they have a conflict of interest. Approximately 10 percent of the Enforcement Division's workload consists of enforcement actions brought against local officials who violate Chapter 7. Eliminating this portion of the division's workload would result in savings through personnel reductions, decreased travel expenses, etc. The burden of enforcing Chapter 7 as to local officials would fall entirely on local law enforcement officials

(primarily county district attorneys) and private attorneys general, who share enforcement authority with the FPPC.

Eliminate or drastically reduce the Enforcement Division's pro-active expedited enforcement programs. In the last few years, partly in response to the Bureau of State Audits report of May 1998, and partly in response to an increase in private attorney general actions, the Enforcement Division has directed staff resources toward three expedited enforcement programs: SEI late or non-filers; late contribution report non-filers; major donor non-filers. These programs are intended to strictly enforce the filing deadlines for campaign reports and SEIs because the Act's reporting systems depend heavily on individuals submitting timely and accurate filings. If these programs are scaled back or eliminated, the Enforcement Division would focus only on the most serious PRA violations, leaving these items to private attorney general enforcement or voluntary compliance.

Eliminate the Enforcement Division's Intake unit. Each year, members of the public submit on average nearly 800 complaints to the Enforcement Division. The division has long operated a special intake unit, consisting of two political reform consultants (transferred from Technical Assistance) who quickly review each complaint, gather preliminary information to expeditiously confirm or refute the accusations, and (with approval from the Chief Investigator and/or Division Chief) either refer the complaint for full investigation, or issue a closure letter. Eliminating the unit would achieve approximately 10% savings in personnel costs. Complaints would be reviewed by a variety of investigative and supervisory staff, less thoroughly and expeditiously, and complainants no longer will receive closure letters explaining the actions taken.

ADMINISTRATIVE REORGANIZATION

Cut back the Commission's meeting schedule. Currently, the Commission meets on a monthly basis to consider regulations, opinions, enforcement cases, litigation, etc. If the Commission cuts back its workload on those items, it could cut back to a bi-monthly schedule, which greatly decreases staff support costs. The public would be encouraged to provide input through letters, e-mail, etc. rather than through the public hearing process.

Consolidate divisions and division chief responsibilities. Currently, the Commission operates with four divisions: Administrative, Legal, Enforcement and Technical Assistance, with the media director, legislative coordinator and public education unit reporting directly to the Executive Director and Chairman. Other alternatives could achieve significant staff savings, through reduction in executive and administrative staff. Possibilities include:

- merging the Administrative, Technical Assistance and Public Education staff
- merging the Legal and Technical Division staffs, while moving the SEI unit and perhaps the conflict code review to Enforcement
- operating with two Chief Deputy Directors rather than four division chiefs – one responsible for Legal/Technical Assistance, the other for Enforcement

Encourage creative personnel arrangements. Rather than eliminate certain positions entirely, the Commission could encourage job-sharing arrangements, voluntary reduction from full to part-time, and perhaps even personnel sharing with other agencies (such as the Attorney General's Office, the Secretary of State, etc.).

Reduction in leased space. The Commission may wish to consider finding a tenant to sublease some portion of the agency's office space in order to reduce the second largest expenditure in the budget. This is an option that should be investigated now, but finalized as we draw nearer to implementation of the cuts in July of 2003 when more will be known about the space requirements the agency will have.